



Order Filed on October 26, 2016
by Clerk
U.S. Bankruptcy Court
District of New Jersey

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In Re:

MEDAK TRUCKING, LLC.,

Debtor.

Case No.: 16-24788

Chapter 11

Hon. Judge: Michael B. Kaplan

Hearing Date and Time:

CORRECTED

INTERIM ORDER: (I) AUTHORIZING USE OF CASH COLLATERAL; (II) PROVIDING ADEQUATE PROTECTION FOR THE USE OF CASH COLLATERAL; (III) SCHEDULING A FINAL HEARING; (IV) WAIVING THE FOURTEEN-DAY STAY; AND (V) GRANTING RELATED RELIEF

The relief set forth on the following pages, numbered two through four, is hereby ORDERED

DATED: October 26, 2016


Honorable Michael B. Kaplan
United States Bankruptcy Judge

Debtor: Medak Trucking, LLC.
Case No.: **16-24788**
Caption of Order: Interim Order: (I) Authorizing Use of Cash Collateral; (II) Granting Adequate Protection;
(III) Scheduling a Final Hearing; and (IV) Granting Related Relief.

This matter coming before the Court on the Motion of the Debtor for Entry of Interim Order: (I) Authorizing Use of Cash Collateral; (II) Granting Secured Creditors Adequate Protection; (III) Scheduling a Final Hearing; (IV) Waiving the Fourteen-Day Stay; and (V) Granting Related Relief (the “Motion”), filed by the above-captioned debtor and debtor-in-possession (the “Debtor”); the Court having reviewed the Motion and the Certification of Andrew Obadiaru, and having considered the statements of counsel and the evidence presented in support of the Motion at a hearing before the Court (the “Interim Hearing”); the Court having found that (i) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, (ii) venue for this matter is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409, (iii) this is a core proceeding pursuant to 28 U.S.C. § 157(b), and (iv) notice of the Motion and the Interim Hearing was sufficient under the circumstances; after due deliberation, the Court having determined that the relief granted below is in the best interest of the Debtor, its estate and its creditors, is essential to preserve the going concern value of the estate, and is necessary to avoid immediate and irreparable harm to the to the estate pending a final hearing; the Court having determined there is a reasonable likelihood that the Debtor will prevail upon the merits at the final hearing of the Motion as required by Section 363(c)(3) of the Bankruptcy Code, and for good cause shown, it is;

ORDERED as follows:

1. Use of Cash Collateral. The Debtor is hereby authorized and empowered pending entry of the Final Order to use the Cash Collateral arising from the property listed in the Cash Collateral Budget attached hereto as **Exhibit “A”** in the ordinary course of the business of the Debtor

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and consistent and with the Cash Collateral Budget.

2. Adequate Protection. As adequate protection for use of cash collateral, the Secured Creditors are GRANTED:

- a. Replacement Lien. A replacement perfected security interest under Section 361(2) of the Bankruptcy Code to the extent the Secured Creditors' cash collateral is used by the Debtor, to the extent and with the same priority in the Debtor's post-petition collateral, and proceeds thereof, that the Secured Creditors held in the Debtor's pre-petition collateral.
- b. Preservation of Business Assets. The Debtor is directed to maintain and preserve the affected assets to include making all necessary repairs and maintaining sufficient insurances.

3. Interlocutory Order and No Modification of Secured Creditors' Adequate Protection. This is an interlocutory order. Nothing contained herein shall be deemed or construed to (a) limit the Secured Creditors to the relief granted herein: (b) bar the Secured Creditors from seeking other and further relief (including without limitation relief from the terms of this Order) for cause shown on appropriate notice to the Debtor and other parties-in-interest entitled to notice of same: or (c) require the Secured Creditors to make any further loans or advances to the Debtor. The Order may be modified for cause shown by the Debtor, the Secured Creditors, or any other party-in interest on due notice. No such modification, however, shall deprive the Secured Creditors of their interest in Debtor's property (pre-petition and post-

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petition).

4. This Interim Order shall be effective as of the Petition Date.

FINAL HEARING

IT IS FURTHER ORDERED, AND NOTICE IS HEREBY GIVEN that the Final Hearing to consider entry of a final order on the relief requested in the Motion is scheduled for 10/31/2016, at 1:00 p.m. prevailing Eastern Time, in the United States Bankruptcy Court for the District of New Jersey, Trenton, New Jersey. Any objections to the Debtor's continued use of Cash Collateral shall be filed with the Court and served upon counsel for the Debtor and the Office of the United States Trustee. If no objections are filed, then this Interim Order may continue in full force and effect and may be deemed a Final Order without further notice or hearing in accordance with Bankruptcy Rule 4001(d)(3).

NOTICE

IT IS FURTHER ORDERED that the Debtor serve a copy of this Order and Notice by first class mail within three business days from the date hereof, on (i) the United States Trustee, (ii) all affected parties; (iii) counsel to any committee appointed under Section 1102 of the Bankruptcy Code, if one has been appointed and if not, to Debtor's twenty largest Rule 1007(d) unsecured creditors; and (iv) all parties who filed notice of appearance herein. Debtor shall immediately file with the Clerk a Certificate of Service of said mailing.

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EXHIBIT A

Budget and Cash Flow Projection

Amended Budget Cash Flow Projection

	<u>Month 1</u>	<u>Month 2</u>	<u>Month 3</u>	<u>Month 4</u>	<u>Month 5</u>	<u>Month 6</u>
BUSINESS INCOME	\$ 160,000.00	\$ 160,000.00	\$ 160,000.00	\$ 160,000.00	\$ 160,000.00	\$ 160,000.00
Expense (Description)	Amount					
Insurance (General etc.)	\$ 7,200.00	\$ 7,200.00	\$ 7,200.00	\$ 7,200.00	\$ 7,200.00	\$ 7,200.00
Trac Intermodal	\$ 1,800.00	\$ 1,800.00	\$ 1,800.00	\$ 1,800.00	\$ 1,800.00	\$ 1,800.00
Trend Intermodal	\$ 2,300.00	\$ 2,300.00	\$ 2,300.00	\$ 2,300.00	\$ 2,300.00	\$ 2,300.00
Truck Lenders USA (APP) ^{**}	\$ 2,792.00	\$ 2,792.00	\$ 2,792.00	\$ 2,792.00	\$ 2,792.00	\$ 2,792.00
Simon 1st Bank (APP) ^{**}	\$ 325.00	\$ 325.00	\$ 325.00	\$ 325.00	\$ 325.00	\$ 325.00
Financial Pacific (APP) ^{**}	\$ 325.00	\$ 325.00	\$ 325.00	\$ 325.00	\$ 325.00	\$ 325.00
Mercedes Benz Financial (APP) ^{**}	\$ 1,535.00	\$ 1,535.00	\$ 1,535.00	\$ 1,535.00	\$ 1,535.00	\$ 1,535.00
FuelRight (Transportation)	\$ 22,000.00	\$ 22,000.00	\$ 22,000.00	\$ 22,000.00	\$ 22,000.00	\$ 22,000.00
Nextraq (Fleet tracking)	\$ 560.00	\$ 560.00	\$ 560.00	\$ 560.00	\$ 560.00	\$ 560.00
Payroll/Sub-contractors	\$ 95,000.00	\$ 95,000.00	\$ 95,000.00	\$ 95,000.00	\$ 95,000.00	\$ 95,000.00
Rent (Office & Yard)	\$ 8,800.00	\$ 8,800.00	\$ 8,800.00	\$ 8,800.00	\$ 8,800.00	\$ 8,800.00
Security Camera(s)	\$ 350.00	\$ 350.00	\$ 350.00	\$ 350.00	\$ 350.00	\$ 350.00
EZ Pass (transportation)	\$ 3,500.00	\$ 3,500.00	\$ 3,500.00	\$ 3,500.00	\$ 3,500.00	\$ 3,500.00
Utilities	\$ 300.00	\$ 300.00	\$ 300.00	\$ 300.00	\$ 300.00	\$ 300.00
Vehicle Maintenance	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00
Office Supplies	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00
Office Admin. Expenses	\$ 170.00	\$ 170.00	\$ 170.00	\$ 170.00	\$ 170.00	\$ 170.00
Advetising	\$ 350.00	\$ 350.00	\$ 350.00	\$ 350.00	\$ 350.00	\$ 350.00
License/Permits	\$ 120.00	\$ 120.00	\$ 120.00	\$ 120.00	\$ 120.00	\$ 120.00
Income Tax (State of NJ)	\$ 1,180.00	\$ 1,180.00	\$ 1,180.00	\$ 1,180.00	\$ 1,180.00	\$ 1,180.00
Income Tax (IRS)	\$ 940.00	\$ 940.00	\$ 940.00	\$ 940.00	\$ 940.00	\$ 940.00
UST Quarterly Fees	\$ 650.00	\$ 650.00	\$ 650.00	\$ 650.00	\$ 650.00	\$ 650.00
TOTAL EXPENSES	\$ 152,697.00	\$ 152,697.00	\$ 152,697.00	\$ 152,697.00	\$ 152,697.00	\$ 152,697.00
TOTAL INCOME	\$ 160,000.00	\$ 160,000.00	\$ 160,000.00	\$ 160,000.00	\$ 160,000.00	\$ 160,000.00
TOTAL EXPENSES	\$ 152,697.00	\$ 152,697.00	\$ 152,697.00	\$ 152,697.00	\$ 152,697.00	\$ 152,697.00
NET CASH FLOW	\$ 7,303.00	\$ 7,303.00	\$ 7,303.00	\$ 7,303.00	\$ 7,303.00	\$ 7,303.00

**** Breakdown of Collateral**

<u>Secured Party</u>	<u>Collateral</u>	<u>Monthly Payment (pre-petition)</u>	
Truck Lenders/Santander	2010 Freightliner Cascadia - Vin No. xx9041	\$ 3,080.16	*
	2012 Freightliner Cascadia - Vin No. xx2987	-	
	2012 Freightliner Cascadia - Vin No. xx3351	-	
Truck Lenders/Signature Bank	2009 Freightliner Cascadia - Vin No. xx1383	\$ 1,154.34	
	2007 Freightliner Columbia - Vin No. xx4003	\$ 925.16	
	2011 Freightliner Cascadia - Vin No. xx0332	\$ 3,299.82	**
	2011 Freightliner Cascadia - Vin No. xx9389	-	
	2011 Freightliner Cascadia - Vin No. xx7971	-	
Financial Pacific	2006 Freightliner Columbia - Vin No. xx3576	\$ 945.19	
Mercedes Benz Financial	2016 Freightliner Cascadia - Vin No. xx3298	\$ 2,051.00	
	2016 Freightliner Cascadia - Vin No. xx3590	\$ 2,601.00	
Simmons 1st Bank	2007 Freightliner Columbia - Vin No. xx3292	\$ 939.40	
Total:		\$ 14,996.07	

* Payment is for three 2010-2012 Freightliner Cascadia: Vin No(s). 9041, 2987, 3351

** Payment is for three 2011 Freightliner Columbia: Vin No(s). 0332, 9389, 7971

¹ Adequate Protection Payments (APP) are based on 33% of the pre-petition monthly payment as per contract terms